

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CHRISTOPHER SNIDER,)
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Plaintiff,)
)
)
vs.) Case No. CIV-09-822-M
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UNITED STATES OF AMERICA, et al.,)
)
)
Defendants.)

ORDER

On June 10, 2010, United States Magistrate Judge Gary M. Purcell issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, seeking damages for alleged constitutional violations committed by defendants. The Magistrate Judge recommended that the motions for summary judgment of defendants Shane Wyatt, Eric Forsythe and Leah Ryans be granted for reason that plaintiff failed to exhaust administrative remedies and that plaintiff's motion for summary judgment be denied for failure to state a cognizable claim and sufficiently show personal participation on behalf of a certain defendant. The parties were advised of their right to object to the Report and Recommendation by June 30, 2010, and plaintiff was granted an extension of time until July 29, 2010 to file his objection. On July 29, 2010, plaintiff filed his objection.

In his objections, plaintiff cites factual averments which the Magistrate Judge made in error and reasons for which he failed to exhaust administrative remedies, namely that he was not given access to the law library where he could avail himself of administrative prerequisites. While there is a recognized exception to the requirement to exhaust when procedures are not available-e.g., when an inmate has been prevented from filing a grievance or the facility refused to answer a grievance-the circumstances in this case do not appear to fall within that exception.

Upon de novo review, the Court:

- (1) ADOPTS the well-reasoned and thorough Report and Recommendation issued by the Magistrate Judge on June 10, 2010;
- (2) GRANTS defendants' motions for summary judgment [docket nos. 48, 49 and 50];
- (3) DENIES plaintiff's motion for summary judgment [docket no. 39];
- (4) DENIES the remaining motions as moot.

IT IS SO ORDERED this 17th day of August, 2010.



VICKI MILES-LAGRANGE
CHIEF UNITED STATES DISTRICT JUDGE